

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

DON BLANKENSHIP,

Plaintiffs,

vs.

HONORABLE ANDREW NAPOLITANO (RET.); FOX NEWS NETWORK, LLC; CABLE NEWS NETWORK, INC.; MSNBC CABLE LLC; NATIONAL REPUBLICAN SENATORIAL COMMITTEE; 35TH INC.; ASSOCIATED PRESS; BOSTON GLOBE MEDIA PARTNERS, LLC; BREITBART NEWS NETWORK, LLC; CLARITY MEDIA GROUP, INC.; THE WASHINGTON TIMES, LLC; TRIBUNE PUBLISHING COMPANY, LLC; WP COMPANY LLC d/b/a THE WASHINGTON POST; NEIL CAVUTO; CHRIS HAYES; SARAH ELIZABETH CUPP; BRADLEY BLAKEMAN; JOHN LAYFIELD; STEPHANIE HAMILL; KEVIN McLAUGHLIN; LEIGH ANN CALDWELL; MICHAEL PATRICK LEAHY; JOSH DAWSEY; JENNA JOHNSON; BEN WOLFGANG; MICHAEL WARREN; CATHLEEN DECKER; and DOES 1-50 inclusive,

Defendants.

Case No.: 2:19-cv-00236

[Honorable John T. Copenhaver, Jr.]

State Civil Action No. 19-C-26

[Honorable Miki J. Thompson]

MOTION FOR REMAND TO STATE COURT

Plaintiff Don Blankenship, by counsel Jeffrey S. Simpkins, hereby moves to remand this action back to the Circuit Court of Mingo County, West Virginia pursuant to 28 U.S.C. § 1447.

As set forth in the Memorandum of Points and Authorities filed concurrently herewith, Defendant Fox News Network, LLC removed this action in violation of 28 U.S.C. § 1441(b)(2), because at least one of the properly named defendants (specifically, defendant 35th, Inc.) is a citizen of the forum state, this action could not be removed to the United States District Court. Plaintiff therefore requests that the Court issue an order remanding this action to state court, and requiring payment of just costs and expenses, including attorney fees, incurred as a result of the removal, as provided in 28 U.S.C. § 1447(c). Plaintiff files concurrently herewith his First Amended Complaint (“FAC”) as a matter of right, given that no responsive pleading has been filed. The FAC is filed without waiver of Plaintiff’s right to seek remand, and is filed at this time and in this Court to preserve Plaintiff’s rights with respect to the statutes of limitations as to certain defendants newly-named in the FAC.

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Wherefore, Plaintiff respectfully requests that his motion to be remand be granted.

Respectfully submitted,

DON BLANKENSHIP
By Counsel

/s/ Jeffrey S. Simpkins
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